

MINUTES

North Dakota State Water Commission Audio Conference Call Meeting Bismarck, North Dakota

February 11, 2004

The North Dakota State Water Commission held an audio conference call meeting in the Governor's conference room, Bismarck, North Dakota, on February 11, 2004. Governor-Chairman, John Hoeven, called the meeting to order at 3:00 PM, and requested State Engineer, and Chief Engineer-Secretary, Dale L. Frink, to call the roll. Governor Hoeven announced a quorum was present.

STATE WATER COMMISSION MEMBERS PRESENT:

Governor John Hoeven, Chairman
Roger Johnson, Commissioner, Department of Agriculture, Bismarck
Charles Halcrow, Member from Drayton
Larry Hanson, Member from Williston
Elmer Hillesland, Member from Grand Forks
Curtis Hofstad, Member from Starkweather
Jack Olin, Member from Dickinson
Harley Swenson, Member from Bismarck
Robert Thompson, Member from Page
Dale L. Frink, State Engineer, and Chief Engineer-Secretary,
North Dakota State Water Commission, Bismarck

OTHERS PRESENT:

Charles Carvell, Assistant Attorney General, Bismarck
Matthew Sagsveen, Assistant Attorney General, Bismarck
Lance Gaebe, Office of the Governor, Bismarck
Curt Woodward, Associated Press, Bismarck
Terry Ellsworth, U.S. Fish and Wildlife Service, Bismarck
William Hardy, Chairman, Cavalier County Water Resource Board (by phone)
State Water Commission Staff

The attendance register is on file with the official minutes.

The meeting was recorded to assist in compilation of the minutes.

CONSIDERATION OF AGENDA

There being no additional items for the agenda, Governor Hoeven announced the agenda approved as presented.

APPROVAL OF ADDITIONAL STATE COST SHARE PARTICIPATION FOR FINAL DESIGN FOR MOUNT CARMEL DAM REHABILITATION PROJECT IN CAVALIER COUNTY (SWC Project No. 1346)

Mount Carmel Dam in Cavalier county was built in 1970 for the purposes of recreation and water supply. The dam is located northeast of the city of Langdon and is owned by the Cavalier County Water Resource District. The earthen embankment is 46 feet high and 670

feet in length, and is currently classified as a medium hazard dam.

In 1995, the Mount Carmel Dam structure was modified. The total project cost of the modifications was \$870,074, of which the State Water Commission approved a 50 percent state cost share participation in the amount of \$435,037. The modifications included blocking off the 66-inch diameter principal spillway pipe, widening and raising the emergency spillway, and constructing a concrete chute spillway with a low-level drawdown. The embankment crest and downstream slope were raised 3.5 feet.

On March 29, 2003, a high school student taking photographs for a class discovered that Mount Carmel Dam was failing. Water was found to be flowing uncontrollably under the chute spillway and exiting out of a large void at the toe of the dam. Federal, state, and local emergency actions kept the dam from completely failing, but the dam requires a major restoration. The reservoir serves as the water supply source for nearly 5,000 people.

The State Water Commission, at its meeting on April 22, 2003, approved an 80 percent state cost share participation not to exceed \$320,000 from the funds appropriated to the State Water Commission in the 2001-2003 biennium, for the initial costs associated with the emergency repairs and consulting engineering services at Mount Carmel Dam. The \$400,000 total allocation was based on \$150,000 for the emergency repairs and \$250,000 for the forensic analysis, partial design, surveillance, and short-term work.

The emergency repairs were completed at a cost of \$121,425. The forensic analysis and short-term work were also completed, but the design for the rehabilitation of the dam remains. GEI Consultants, Inc., Englewood, Colorado, was selected to perform the forensic analysis and has been retained to complete the design.

Secretary Frink explained that a contract was executed with GEI Consultants, Inc., on January 9, 2004 to complete a partial design at a cost of \$163,995. The final design requires an additional \$34,523, increasing the total project cost to \$431,771 (\$31,771 over the original estimated cost). It is anticipated that the Mount Carmel Dam rehabilitation project will be completed in 2004.

It was the recommendation of the State Engineer that the State Water Commission approve an additional state cost share participation of 80 percent of the eligible final design costs, not to exceed \$30,000 from the funds appropriated to the State Water Commission in the 2003-2005 biennium, for the rehabilitation of Mount Carmel Dam.

It was moved by Commissioner Halcrow and seconded by Commissioner Olin that the State Water Commission approve an additional state cost share participation of 80 percent of the eligible final design costs, not to exceed an additional \$30,000 from the funds appropriated to the State Water Commission in the 2003-2005 biennium, associated with the rehabilitation of the Mount Carmel Dam. This motion is contingent upon the availability of funds.

This action increases the total state cost share contribution to \$350,000 for the Mount Carmel Dam.

Commissioners Halcrow, Hanson, Hillesland, Hofstad, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

Secretary Frink indicated the estimated costs for construction of the rehabilitation project is \$1.5 - 2.0 million, and that a request for state cost share participation will be presented for the State Water Commission's consideration at a future meeting.

NORTHWEST AREA WATER SUPPLY (NAWS) PROJECT, NORTH DAKOTA DEVILS LAKE OUTLET PROJECT, DEVILS LAKE LANDOWNERS CASE, AND MISSOURI RIVER LITIGATION (SWC Project Nos. 237-04, 416-01, 1392)

At its meeting on December 5, 2003, the State Water Commission directed the State Engineer and the Assistant Attorney General to provide a litigation briefing relating to the North Dakota Devils Lake Outlet Project and the Northwest Area Water Supply (NAWS) Project issues. Secretary Frink explained that an executive session, under the provisions of North Dakota Century Code § 44-04-19.1 for the purposes of attorney consultation, would be required. The litigation briefing to the State Water Commission members will include the Devils Lake landowners case and the Missouri River.

It was moved by Commissioner Johnson and seconded by Commissioner Thompson that under the provisions of North Dakota Century Code § 44-04-19.1, the State Water Commission proceed into executive session on February 11, 2004 at 3:20 PM for the purposes of consultation with the staffs of the Office of Attorney General and the State Water Commission regarding litigation involving the Northwest Area Water Supply Project, the North Dakota Devils Lake Outlet Project, the Devils Lake landowners case, and the Missouri River.

Commissioners Halcrow, Hanson, Hillesland, Hofstad, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

Following consultation with the staffs of the Office of Attorney General and the State Water Commission regarding litigation involving the Northwest Area Water Supply Project, the North Dakota Devils Lake Outlet Project, the Devils Lake landowners case, and the Missouri River, Governor Hoeven reconvened the open session of the State Water Commission audio conference call meeting on February 11, 2004 at 4:10 PM.

There being no further business to come before the State Water Commission, Governor Hoeven adjourned the audio conference call meeting at 4:12 PM.

John Hoeven, Governor
Chairman, State Water Commission

SEAL

Dale L. Frink
North Dakota State Engineer, and
Chief Engineer-Secretary to the
State Water Commission